

## **APPENDIX K TO DIR CONTRACT NO. DIR-TSO-2539**



### **Public Sector Schedule H - Hardware**

Oracle America, Inc. ("Oracle")  
500 Oracle Parkway Redwood Shores, CA  
94065

<b>Your Name:</b>	
<b>General Terms Reference:</b>	US-GMA-225288

This Public Sector Hardware Schedule (this "Schedule H") is a Schedule to the General Terms referenced above. The General Terms and this Schedule H, together with any other Schedules that reference the General Terms, are the General Agreement. As used in this Schedule H, "you", "You", "your" or "Your" shall refer to the Customer placing an order under DIR-TSO-2359.

#### **1. DEFINITIONS**

1.1 "**Commencement Date**" for the Hardware, Operating System and Integrated Software refers to the date the Hardware is delivered. For Integrated Software Options, the Commencement Date refers to the date that Oracle both parties fully sign an order for an Integrated Software Option.

1.2 "**Integrated Software Options**" refers to software or programmable code embedded in, installed on, or activated on the Hardware that requires one or more unit licenses that You must separately order. Such separate order will set forth the fees for the Integrated Software Options You are ordering. Not all Hardware contains Integrated Software Options; please refer to the Oracle Integrated Software Options License Definitions, Rules and Metrics accessible at <http://oracle.com/contracts> (the "Integrated Software Options License Rules") for the specific Integrated Software Options that may apply to specific Hardware. Oracle reserves the right to designate new software features as Integrated Software Options in subsequent releases and that designation will be specified in the applicable documentation and in the Integrated Software Options License Rules.

1.3 Capitalized terms used but not defined in this Schedule H have the meanings set forth in the General Terms.

#### **2. RIGHTS GRANTED**

2.1 Your Hardware order consists of the following items: Operating System (as defined in Your configuration), Integrated Software and all Hardware equipment (including components, options and spare parts) specified on the applicable order. Your Hardware order may also include Integrated Software Options. Integrated Software Options may not be activated or used until You separately order them and pay the fees as set forth in and in accordance with such Order.

2.2 You have the right to use the Operating System delivered with the Hardware subject to the terms of DIR Contract No. DIR-TSO-2539 and the license agreement(s) delivered with the Hardware. Current versions of the license agreements are located at <http://oracle.com/contracts>. You are licensed to use the Operating System and any Operating System updates acquired through technical support only as incorporated in, and as part of, the Hardware.

2.3 You have the limited, non-exclusive, royalty free, non-transferable, non-assignable right to use Integrated Software delivered with the Hardware subject to the terms of this Schedule H and the applicable documentation. You are licensed to use that Integrated Software and any Integrated Software updates acquired through technical support only as incorporated in, and as part of, the Hardware. You have the limited, non-exclusive, royalty free, non-transferable, non-assignable right to use Integrated Software Options that You separately order subject to the terms of this Schedule H, the applicable documentation and the Integrated Software Options License Rules; the Integrated Software Options License Rules are incorporated in and made a part of this Schedule H. You are licensed to use those Integrated Software

Options and any Integrated Software Options updates acquired through technical support only as incorporated in, and as part of, the Hardware. To fully understand Your license right to any Integrated Software Options that You separately order, You need to review the Integrated Software Options License Rules. In the event of any conflict between DIR Contract No. DIR-TSO-2539, the General Agreement and the Integrated Software Options License Rules, DIR Contract No. DIR-TSO-2539 shall take precedence.

2.4 The Operating System or Integrated Software or Integrated Software Options (or all three) may include separate works, identified in a readme file, notice file or the applicable documentation, which are licensed under open source or similar license terms; Your rights to use the Operating System, Integrated Software and Integrated Software Options under such terms are not restricted in any way by the General Agreement including this Schedule H. The appropriate terms associated with such separate works can be found in the readme files, notice files or in the documentation accompanying the Operating System, Integrated Software, and Integrated Software Options.

For GPLv2, LGPLv2.1, GPLv3 and LGPLv3 licensed code You received as binaries on physical media, You may receive a copy of the source code ("source code") on media via postal service by submitting a written request at <http://www.oracle.com/technetwork/opensource/index.html>. Alternatively, You can mail Your written request to Oracle Corporation, Attn: VP of Legal, Development and Engineering, 500 Oracle Parkway, MS-50P10, Redwood Shores, CA 94065. Your request should include the name and version number of the Product, Your name, Your company name (if applicable), Your return mailing address, and Your email address. Certain source distributions require a fee for physical media; in such case, You will be sent details on the cost and payment procedure via email. Your request must be sent within three (3) years of the date of Oracle's last delivery of the applicable Product, or in the case of code licensed under the GPLv3, You may send a request for as long as Oracle offers spare parts or technical support for the applicable Product model. This offer only applies if You received Your Operating System, Integrated Software or Integrated Software Options on physical media.

2.5 Upon payment for Hardware-related Service Offerings, You have the non-exclusive, non-assignable, royalty free, perpetual, limited right to use for Your internal business operations anything developed by Oracle and delivered to You under this Schedule H ("deliverables"); however, certain deliverables may be subject to additional license terms which are provided in the order.

### **3. RESTRICTIONS**

3.1 You may only make copies of the Operating System, Integrated Software and Integrated Software Options for archival purposes, to replace a defective copy, or for program verification. You shall not remove any copyright notices or labels on the Operating System, Integrated Software or Integrated Software Options. You shall not decompile or reverse engineer (unless required by law for interoperability) the Operating System or Integrated Software.

3.2 You acknowledge that to operate certain Hardware, Your facility must meet a minimum set of requirements as described in the Hardware documentation. Such requirements may change from time to time, as communicated by Oracle to You in the applicable Hardware documentation.

3.3 The prohibition on the assignment or transfer of the Operating System or any interest in it under section 15 of the General Terms shall apply to all Operating Systems licensed under this Schedule H, except to the extent that such prohibition is rendered unenforceable under applicable law.

### **4. TRIAL PROGRAMS**

Oracle may include additional Programs on the Hardware (e.g., Exadata Storage Server software). You are not authorized to use those Programs unless You have a license specifically granting You the right to do so; however, You may use those additional Programs for trial, non-production purposes for up to 30 days from the date of delivery provided that You may not use the trial Programs to provide or attend third party training on the content and/or functionality of the Programs. To use any of these Programs after the 30 day trial period, You must obtain a license for such Programs from Oracle or an authorized reseller. If You decide not to obtain a license for any Program after the 30 day trial period, You will cease using and promptly delete any such Programs from Your computer systems. Programs licensed for trial purposes are provided "as is" and Oracle does not provide technical support or offer any warranties for these Programs.

## **5. TECHNICAL SUPPORT**

5.1 Oracle Hardware and Systems Support acquired with Your order may be renewed annually and, if You renew Oracle Hardware and Systems Support for the same systems and same configurations, for the first and second renewal years the technical support fee will not increase by more than 4% over the prior year's fees.

5.2 If ordered, Oracle Hardware and Systems Support (including first year and all subsequent years) is provided under Oracle's Hardware and Systems Support Policies in effect at the time the technical support services are provided. You agree to cooperate with Oracle and provide the access, resources, materials, personnel, information, and consents that Oracle may require in order to perform the technical support services. The Oracle Hardware and Systems Support Policies are incorporated in this Schedule H and are subject to change at Oracle's discretion; however, Oracle will not materially reduce the level of technical support services provided during the period for which fees for Oracle Hardware and Systems Support have been paid. You should review the policies prior to entering into the order for technical support services. You may access the current version of the Oracle Hardware and Systems Support Policies at <http://oracle.com/contracts>.

5.3 Oracle Hardware and Systems Support is effective upon the Commencement Date of the Hardware or upon the effective date of the order if shipment of Hardware is not required.

## **6. HARDWARE-RELATED SERVICE OFFERINGS**

In addition to technical support, You may order a limited number of Hardware-related Service Offerings under this Schedule H as listed in the Hardware-Related Service Offerings document, which is at <http://oracle.com/contracts>. You agree to provide Oracle with all information, access and full good faith cooperation reasonably necessary to enable Oracle to deliver these Service Offerings and You will perform the actions identified in the order as Your responsibility. If while performing these Service Offerings Oracle requires access to another vendor's products that are part of Your system, You will be responsible for acquiring all such products and the appropriate license rights necessary for Oracle to access such products on Your behalf. Service Offerings provided may be related to Your license to use Products owned or distributed by Oracle which You acquire under a separate order. The agreement referenced in that order shall govern Your use of such Products.

## **7. AUDIT**

Upon 45 days written notice, Oracle may audit Your use of the Operating System, Integrated Software and Integrated Software Options. You agree to cooperate with Oracle's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with Your normal business operations. You agree to pay, in accordance with Appendix A, Section 8J of DIR Contract No. DIR-TSO-2539, upon written notification any fees applicable to Your use of the Operating System, Integrated Software and Integrated Software Options in excess of Your license rights. If You do not pay, Oracle can end (a) Service Offerings (including technical support) related to the Operating System, Integrated Software and Integrated Software Options, (b) licenses of the Operating System, Integrated Software and Integrated Software Options ordered under this Schedule H and related agreements and/or (c) the General Agreement. You agree that Oracle shall not be responsible for any of Your costs incurred in cooperating with the audit.

## **8. ORDER LOGISTICS**

### **8.1 Delivery, Installation and Acceptance of Hardware**

8.1.1 You are responsible for installation of the Hardware unless You purchase installation services from Oracle for that Hardware.

8.1.2 Oracle will deliver the Hardware to the delivery address specified by You on Your purchasing document or when Your purchasing document does not indicate a ship to address, the location specified on the order. The applicable country specific Hardware shipping terms are located in the Order and Delivery Policies, which may be accessed at <http://oracle.com/contracts>.

8.1.3 Acceptance of the Hardware is deemed to occur upon customer notice of acceptance in accordance with section C of Appendix F of DIR-TSO-2539.

8.1.4 Oracle may make and invoice You for partial deliveries in accordance with Appendix A, Section 8I of DIR Contract No. DIR-TSO-2539.

8.1.5 Oracle may make substitutions and modifications to the Hardware that do not cause a material adverse effect in overall Hardware performance.

8.1.6 Oracle will use its reasonable commercial efforts to deliver the Hardware within a timeframe that is consistent with Oracle's past practices regarding the amount and type of Hardware that You have ordered.

## **8.2 Transfer of Title**

Title to the Hardware will transfer upon delivery.

## **8.3 Territory**

The Hardware shall be installed in the country/countries that You specify as the delivery location on Your purchasing document or when Your purchasing document does not indicate a ship to address, the location specified in the order.

## **8.4 Pricing, Invoicing, and Payment Obligation**

8.4.1 You may change a Hardware order prior to shipment subject to the then current change order fee as established by Oracle from time to time. The applicable change order fees and a description of allowed changes are defined in the Order and Delivery Policies, which may be accessed at <http://oracle.com/contracts>.

8.4.2 In entering into payment obligations under an order, You agree and acknowledge that You have not relied on the future availability of any Hardware, Program or updates. However, (a) if You order technical support, the preceding sentence does not relieve Oracle of its obligation to provide such technical support under the General Agreement, if and when available, in accordance with Oracle's then current technical support policies, and (b) the preceding sentence does not change the rights granted to You under an order and the General Agreement.

8.4.3 Hardware and Integrated Software Options fees are invoiced as of the respective Commencement Dates.

8.4.4 Hardware-related Service Offering fees are invoiced after performance of the Hardware-related Service Offering performance; specifically, technical support fees are invoiced quarterly in arrears. The period of performance for all Hardware-related Service Offerings is effective upon the Commencement Date of the Hardware or upon the effective date of the order if shipment of Hardware is not required.